

AMENDED IN ASSEMBLY JULY 16, 2009

AMENDED IN ASSEMBLY JULY 13, 2009

AMENDED IN SENATE APRIL 28, 2009

AMENDED IN SENATE APRIL 15, 2009

AMENDED IN SENATE APRIL 1, 2009

## **SENATE BILL**

**No. 748**

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**Introduced by Senator Leno**

February 27, 2009

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An act to add Section 14029.5 to the Penal Code, relating to witness relocation and assistance.

### LEGISLATIVE COUNSEL'S DIGEST

SB 748, as amended, Leno. Witness Relocation and Assistance Program: address records.

Existing law establishes the Witness Relocation and Assistance Program.

This bill would provide that no person, state, or local public agency, or private entity shall post the home address, the telephone number, or personal identifying information that discloses the location of any witness or witness family member participating in the Witness Relocation and Assistance Program (WRAP) with the intent that another person imminently use that information to commit a crime involving violence or a threat of violence against that witness or witness' family member, and that a violation of these provisions would be a misdemeanor punishable by a fine of up to \$2,500, or up to 6 months in a county jail, or by both that fine and imprisonment. The bill would also provide that a violation that leads to the bodily injury of the witness,

or the witness' family members who are participating in the program, is a misdemeanor punishable by a fine of up to \$5,000, or up to one year in a county jail, or by both that fine and imprisonment. The bill would authorize participants in the program to submit opt-out forms to Internet search engine providers to notify those providers of the participants, and to prevent inclusion of the ~~participants~~ *participants'* addresses and telephone numbers in public Internet search databases, as specified. The bill would require a business, state or local agency, private entity, or person to remove the home address or telephone number of a WRAP participant from its public Internet search databases within ~~48 hours~~ *two business days* of delivery of the opt-out form, and ~~to ensure the information is not reposted on the same Internet Web site, a subsidiary site, or any other Internet Web site maintained by the recipient of the opt-out form, and the failure to do so would be~~ *would* subject *a violator of this provision* to a \$5,000 civil fine, as specified. The bill would authorize a witness whose home address or telephone number is made public as a result of a violation, as specified, to bring an action seeking injunctive or declaratory relief. The bill would further provide that no business, state or local agency, private entity, or person that has received an opt-out form from *a* WRAP participant shall solicit, sell, or trade on the Internet the home address or telephone number of that participant, and would authorize an action for damages, as specified, for a violation of this prohibition.

By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 14029.5 is added to the Penal Code, to
- 2 read:
- 3 14029.5. (a) (1) No person or private entity shall post on the
- 4 Internet the home address, the telephone number, or personal
- 5 identifying information that discloses the location of any witness

1 or witness' family member participating in the Witness Relocation  
2 and Assistance Program (WRAP) with the intent that another  
3 person imminently use that information to commit a crime  
4 involving violence or a threat of violence against that witness or  
5 witness' family member.

6 (2) A violation of this subdivision is a misdemeanor punishable  
7 by a fine of up to two thousand five hundred dollars (\$2,500), or  
8 imprisonment of up to six months in a county jail, or by both that  
9 fine and imprisonment.

10 (3) A violation of this subdivision that leads to the bodily injury  
11 of the witness, or of any of the witness' family members who are  
12 participating in the program, is a misdemeanor punishable by a  
13 fine of up to five thousand dollars (\$5,000), or imprisonment of  
14 up to one year in a county jail, or by both that fine and  
15 imprisonment.

16 (b) Upon admission to ~~the WRAP program~~ WRAP, local or state  
17 prosecutors shall give each participant a written opt-out form for  
18 submission to relevant Internet search engine companies or entities.  
19 This form shall notify entities of the protected person and prevent  
20 the inclusion of the participant's addresses and telephone numbers  
21 in public Internet search databases.

22 (c) A business, state or local agency, private entity, or person  
23 that receives the opt-out form of a WRAP participant pursuant to  
24 this paragraph shall remove the participant's personal information  
25 from public display on the Internet within ~~48 hours~~ *two business*  
26 *days* of delivery of the opt-out form, and shall continue to ensure  
27 that this information is not reposted on the same Internet Web site,  
28 a subsidiary site, or any other Internet Web site maintained by the  
29 recipient of the opt-out form. No business, state or local agency,  
30 private entity, or person that has received an opt-out form from a  
31 WRAP participant shall solicit, sell, or trade on the Internet the  
32 home address or telephone number of that participant.

33 (d) A business, state or local agency, private entity, or person  
34 that violates subdivision (c) shall be subject to a civil penalty for  
35 each violation in the amount of five thousand dollars (\$5,000). An  
36 action for a civil penalty under this subdivision may be brought  
37 by any public prosecutor in the name of the people of the State of  
38 California and the penalty imposed shall be enforceable as a civil  
39 judgment.

1 (e) A witness whose home address or telephone number is made  
2 public as a result of a violation of subdivision (c) may bring an  
3 action seeking injunctive or declaratory relief in any court of  
4 competent jurisdiction. If a jury or court finds that a violation has  
5 occurred, it may grant injunctive or declaratory relief and shall  
6 award the witness court costs and reasonable attorney's fees.

7 (f) Notwithstanding any other provision of law, a witness whose  
8 home address or telephone number is solicited, sold, or traded in  
9 violation of subdivision (c) may bring an action in any court of  
10 competent jurisdiction. If a jury or court finds that a violation has  
11 occurred, it shall award damages to that witness in an amount up  
12 to a maximum of three times the actual damages, but in no case  
13 less than four thousand dollars (\$4,000).

14 (g) Nothing in this section shall preclude prosecution under any  
15 other provision of law.

16 SEC. 2. No reimbursement is required by this act pursuant to  
17 Section 6 of Article XIII B of the California Constitution because  
18 the only costs that may be incurred by a local agency or school  
19 district will be incurred because this act creates a new crime or  
20 infraction, eliminates a crime or infraction, or changes the penalty  
21 for a crime or infraction, within the meaning of Section 17556 of  
22 the Government Code, or changes the definition of a crime within  
23 the meaning of Section 6 of Article XIII B of the California  
24 Constitution.